



URBAN TRANSPORT GROUP

The voice of UK
urban transport

Consultation response

PR18 Initial Consultation

Working paper 1: Implementing route-level regulation

Office of Road and Rail

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1. Introduction

- 1.1. The Urban Transport Group (UTG) represents the seven largest city region strategic transport bodies¹ in England, which, between them, serve over twenty million people in Greater Manchester, London, the Liverpool City Region, the North East Combined Authority area, South Yorkshire, the West Midlands conurbation and West Yorkshire. Nottingham City Council, the West of England Partnership and Strathclyde Partnership for Transport (SPT) are associate members of the UTG.
- 1.2. Our members plan, procure, provide and promote public transport in some of Britain's largest city regions, with the aim of delivering integrated public transport networks accessible to all.
- 1.3. This response supplements our submission to the main PR18 initial consultation document.

2. Summary of key ORR proposals

- 2.1. Below is a summary of what we consider to be the key proposals in the ORR's Working Paper One on route-level regulation:
 1. Relevant outputs to be specified at route-level.
 2. Routes to produce route strategic business plans (RSBPs). Customer engagement to be a central part of this process with stakeholders being primarily involved in specifying outputs, operational improvements, (possibly) enhancement priorities, possessions strategy/scheme delivery.
 3. RSBPs to be consolidated into a single submission to DfT which would be agreed by Network Rail as a whole. ORR considers the possibility that individual routes may be able to choose not to sign up to the final submission though it acknowledges there are practical constraints to this approach.
 4. Each route to have their own funding settlement. But Network Rail would still be able to move funds between routes.
 5. ORR is proposing not to be prescriptive on the approach to customer engagement although it suggests that "*routes that do not [demonstrate customer engagement] are likely to be subject to more detailed scrutiny*".
 6. Network Rail centre is expected to provide guidance and technical support to routes in developing their individual plans. We take this to mean that routes would remain dependent on the centre for business case skills.
 7. Route-level regulation could lead to greater spatial disaggregation of charges.
 8. ORR proposes two concrete regulatory innovations:
 - a. Benchmarking, whereby the ORR would use econometric techniques to compare efficiency levels between NR routes.
 - b. Grading of business plans, whereby the ORR would recognise routes that produce high-quality business plans by either giving them lower levels of scrutiny or by rewarding management teams through public recognition.

¹ With the exception of Transport for London, these bodies were formally known as Passenger Transport Executives (PTEs) and the UTG was formerly known as the Passenger Transport Executive Group (*pteg*). In recent years, some PTEs have been abolished with their functions transferred onto successor bodies, such as Combined Authorities. The new name for our group reflects these changes.

3. Our views

- 3.1. Points one and two (see above) are to be welcomed and we would encourage the ORR to go further and consider setting outputs at operator, and potentially even service group, level (more on this below in relation to benchmarking). This would go some way towards meeting the objective of city region transport authorities and sub-national transport bodies to have greater involvement in the specification and monitoring of rail infrastructure outputs in their areas. These proposals are also likely to make Network Rail's required outputs and performance more visible at local level which would be a positive outcome more generally.
- 3.2. Our members have some concerns over points three to six.
- 3.3. Point three effectively curtails the power of route management teams and, by extension, the ability of local stakeholders to influence Route Strategic Business Plans.
- 3.4. The proposal, under point four, for each route to have their own funding settlement is to be welcomed. But the fact that Network Rail would be able to move funding between routes suggests that this could be a meaningless change and render local stakeholders and customers powerless.
- 3.5. Point five implies a relatively soft regulatory approach to customer engagement on the part of the ORR. Network Rail faces a large number of competing incentives and objectives so, given this approach, we feel that customer engagement is unlikely to become top of its list of priorities.
- 3.6. Point six suggests to us that existing bottlenecks in terms of scheme development are likely to remain. We feel that it is important for Network Rail routes to be adequately resourced so as to be able to take ownership of their own decisions and be sufficiently accountable for their relationship with local stakeholders/customers.
- 3.7. We touch on point seven in our response to the main PR18 initial consultation document (see paras 3.32 to 3.35). We are generally supportive of proposals to make track access charges more cost reflective but argue that this needs to be done in a coherent and consistent way across the network, taking account of all costs.
- 3.8. On the issue of benchmarking (point 8a above), the ORR's proposal is a move in the right direction as it would give industry another tool with which to objectively compare route efficiency and understand cost drivers. However, we feel that the ORR and Network Rail will have to delve deeper into the data (for example, by taking route sections as the unit of analysis) in order to be able to gain insights of real value.
- 3.9. On the idea of grading business plans (point 8b), this proposal has some similarities with the old Local Transport Plan process administered by the Department for Transport, whereby local transport authorities with the best plans (as judged by the DfT) could get up to an extra 25% funding relative to the base level determined by formula. It could be argued that there were some merits in the DfT's approach and that this did lead to better quality plans (as defined by the DfT) than would have otherwise been the case. An alternative view is that this encouraged transport authorities to find ways to write plans that complied with the DfT's evaluation criteria. It may be worthwhile for the ORR to look into the research that has been done to evaluate the LTP process.

- 3.10. Whichever the case, we are sceptical that the ORR's proposal will have a significant impact. In its most basic form, it would represent a relatively weak reputational incentive (route managers would presumably have far more challenging problems to solve than writing route business plans). In its more sophisticated form (whereby the quality of plans could be linked to route management compensation), it may have a measurable impact although we wouldn't expect this to represent a material proportion of management compensation.
- 3.11. At a deeper level, we feel that none of the ORR's proposals above directly tackle the fundamental underlying issue that Network Rail remains only truly accountable to the DfT (and to some extent, Transport Scotland). It is assumed that NR as a whole will continue to be the regulated entity and that its relationships with the DfT and Transport Scotland will remain its only real lines of accountability. As the ORR itself recognises, "NR [statutory] responsibilities with the DfT and Transport Scotland (...) may constrain the ability of the routes to prepare independent plans".
- 3.12. Success of ORR's proposals (which we would define as greater local leverage over route management) would entirely depend on local stakeholders' ability to influence route management without any formal powers. However, route management will remain beholden to NR HQ, which is where the formal regulatory power will continue to be exercised.
- 3.13. Whilst route devolution is likely to have a number of positive outcomes, we would encourage the ORR to be bolder in its thinking about the regulatory tools that could be put in place to make the most of this structural change. We recognise that there are limits to the powers of the ORR in this respect. But we feel that, as a minimum, the ORR could be more explicit about the strengths and weaknesses of different approaches and their likelihood of success.